

ORDINANCE NO. 735

THE INITIATIVE AND REFERENDUM ORDINANCE OF THE CITY OF MILWAUKIE.

The City of Milwaukie does ordain as follows:

ARTICLE I

INTRODUCTORY PROVISIONS

Section 1. DEFINITIONS. As used in this ordinance--

- (1) the term "measure" means--
 - (a) a legislative enactment by the council not necessary for the immediate preservation of the public peace, health, or safety;
 - (b) a part of such enactment; or
 - (c) a proposed legislative enactment, charter or charter amendment for the city;
- (2) the term "voter" means a legal voter of the city;
- (3) the term "general election" means a general November election;
- (4) the term "petition" means an initiative or referendum petition for ordering a measure to be submitted to the voters; and
- (5) the term "refer" means to be subjected to the referendum
- (6) the term "write" means to write, type, or print.

Section 2. ORDINANCE PROVIDES COMPLETE PROCEDURE. This ordinance provides a complete procedure for the voters to exercise their initiative and referendum powers.

ARTICLE II

INITIATIVE

Section 3. MANNER OF PROPOSING MEASURE. The manner of proposing a measure by the initiative shall be to deposit at the office of the recorder a duly prepared petition ordering the measure to be submitted to the voters.

Section 4. FORM OF PETITION. No initiative petition shall be deemed duly prepared unless it is in substantially the following form:

WARNING

It is an offense for a person to sign this petition unless he is a legal voter of the city of Milwaukie, or to sign it with a name not his own, or to sign his name to it knowingly more than once.

PETITION FOR INITIATIVE

To _____, recorder of the
city of Milwaukie:

We legal voters of the City of Milwaukie petition that the attached measure be submitted to the legal voters of the city for their approval. Each of us for himself says: I have signed this petition, I am a legal voter of the city, and my address is written correctly after my name.

Name

Address

1. _____

(In drawing the petition provide twenty numbered lines such
(as this for signatures and addresses.)

Section 5. PRESENTATION OF MEASURE TO COUNCIL. At the next session of the council after the proposal of an initiative measure the recorder shall present the measure to the council.

Section 6. SUBMISSION OF MEASURE TO VOTERS. The recorder shall cause to be submitted to the voters at the time provided by this ordinance a charter or charter amendment proposed by the initiative and any other initiative measure not enacted within 30 days after its proposal.

ARTICLE III

REFERENDUM

Section 7. MANNER OF REFERRING MEASURE. The manner of referring a measure shall be--

- (1) for a person to deposit at the office of the recorder a duly prepared referendum petition for the measure or
- (2) for the council to order submission of the measure to the voters.

Section 8. FORM OF PETITION. No referendum petition shall be deemed duly prepared unless it is in substantially the following form:

WARNING

It is an offense for a person to sign this petition unless he is a legal voter of the city of Milwaukie, or to sign it with a name not his own, or to sign his name to it knowingly more than once.

PETITION FOR REFERENDUM

To _____, recorder of the city
of Milwaukie:

We legal voters of the city of Milwaukie petition that the attached _____ /1 no. _____
of the city, entitled _____ and
passed _____, 19____, be referred to the legal
voters of the city for their approval. Each of us for him-

self says: I have signed this petition, I am a legal voter of the city, and my address is written correctly after my name.

Name

Address

1. _____
(In drawing the petition provide twenty numbered lines such)
(as this for signatures and addresses.)

Section 9. TIME FOR REFERRING MEASURE BY PETITION. No referendum petition for a measure shall be deemed duly prepared unless the petition and the signatures requisite to its being deemed duly prepared are deposited at the office of the recorder within 30 days after the council enacts the measure.

Section 10. TIME FOR COUNCIL TO REFER MEASURE. The council may refer a measure only at the session at which it enacts the measure.

Section 11. SUBMISSION OF MEASURE TO VOTERS. The recorder shall cause a referred measure to be submitted to the voters at the time fixed by this ordinance.

ARTICLE IV

PETITION

Section 12. PROCEDURE PRIOR TO CIRCULATION OF PETITION.

- (1) Presentation for Checking, Specifications, and Preparation of Titles. No petition shall be deemed duly prepared unless--
 - (a) prior to its circulation a copy of it is deposited at the office of the recorder and
 - (b) as circulated it complies with the specifications listed below which he makes concerning it and contains the ballot title, either that prepared initially or that approved or prescribed on appeal, required by this ordinance for the measure for which it is being circulated.
- (2) Checking, Specifications, and Preparation of Titles. When a copy of a petition to be circulated is deposited at the office of the recorder he shall immediately--
 - (a) check it for the legal sufficiency of the form in which it appears;
 - (b) advise the person depositing whether it is legally sufficient in form and, if it is not so, how to make it so;
 - (c) specify the mode of writing the petition and the size and kind of paper on which to write it; and
 - (d) if he is not responsible for preparing the titles required by this ordinance for the measure to which the petition relates, transmit the copy to the city attorney.

Section 13. REQUISITE NUMBER OF SIGNATURES.

- (1) Requisite Number. The number of signatures on a petition requisite to its being deemed duly prepared shall be, for an initiative petition, 15, and for a referendum petition, 10, per cent of the number of votes cast for the office of councilman at the councilmanic election last preceding the deposit of the petition at the office of the recorder after its circulation.
- (2) Basis for Computation. The number of votes cast for the office of councilman at an election shall be computed by adding together the votes cast at the election for the various candidates for the offices of councilman and dividing the sum thus obtained by the number of offices of councilman to be filled at the election.

Section 14. ATTACHMENT OF MEASURE TO SHEETS FOR SIGNATURES. No signature on a petition sheet shall be counted unless attached to it at the time of the signing of the signature is a copy of the measure to which the petition refers.

Section 15. VERIFICATION OF SIGNATURES. No signature on a petition sheet shall be counted unless the person who circulates the sheet verifies it by an affidavit in the following form:

State of Oregon)
County of Clackamas) ss.
City of Milwaukie)

I, _____, being first duly sworn,
state that each signer of this sheet signed it in my presence,
and that I believe that he stated his name and address correctly
on the sheet and is a legal voter of the city of Milwaukie.

Address of affiant:

Subscribed and sworn to before me this ____ day of _____,
_____, 19__.

My commission expires _____, 19__.

Section 16. CERTIFICATION OF SIGNATURES.

- (1) Certification by Recorder. Within five days after a duly prepared petition is deposited at his office the recorder shall--
 - (a) compare the signatures on it with the signatures on the registration records in the office of the clerk of Clackamas County, Oregon, and

(b) attach to the petition a certificate in the following form--

State of Oregon)
County of Clackamas) ss.
City of Milwaukie)

I, _____, recorder of the city of Milwaukie, certify that I have compared the signatures on the attached petition with the signatures on the registration records in the office of the clerk of Clackamas County, Oregon, and on the basis of those records I certify that the signatures of the following persons, in the number of _____, are genuine:

and that the signatures of the following persons, in the number of _____, are not genuine:

Recorder

(2) Certification by Notary. Within five days after the recorder attaches to a petition his certificate concerning the genuineness of the signatures on the petition a voter may attach to it a certificate in the following form by a notary public resident in the city--

State of Oregon)
County of Clackamas) ss.
City of Milwaukie)

I, _____, a duly qualified and acting notary public resident in the city of Milwaukie, certify that I am personally acquainted with the following named voters whose signatures are affixed to the attached petition, that I know or on my own knowledge that they are legal voters of the city of Milwaukie, that their addresses are correctly stated in the petition, and that their signatures on the petition are genuine :

In testimony whereof I have set my hand and official seal
this _____ day of _____, 19__.

Notary Public for Oregon

- (3) Effect of Certificate. A certificate provided by this section shall be prima facie evidence of the qualifications of the voters whose signatures it certifies to be genuine.

Section 17. SIGNATURES TO BE COUNTED. In determining whether a petition contains the number of signatures requisite to its being deemed duly prepared, the recorder shall count, except signatures forbidden by this ordinance to be counted, all signatures on the petition which either he or a notary public resident in the city certifies to be genuine.

ARTICLE V

BALLOT TITLE

Section 18. PREPARATION OF BALLOT TITLE.

- (1) Time for Preparation. The ballot title for a measure ~~ordered by the council, or~~ proposed to be ordered by a petition, to be submitted to the voters shall be prepared and in the hands of the recorder within five days after the council orders the submission or after a copy of the petition is first deposited at the office of the recorder.
- (2) Initial Preparation. ~~When a council orders submission of a measure to the voters, or~~ When a petition for ordering submission of a measure to the voters is first deposited at the office of the recorder--
- (a) ~~immediately upon the making of the order by the council~~ or upon receiving the copy of the petition, shall transmit to the attorney a copy of the measure and the attorney, within the time in which this section requires preparation of the title, shall prepare it and transmit it to the recorder, or
 - (b) if the city's attorney is prevented by reason of absence from the city or physical disability from preparing the ballot title within the time in which this section requires preparation of the title, then the recorder, within that time, shall prepare the title.
- (3) Appeal to Council. A voter dissatisfied with the title may, within five days after it is prepared and in the hands of the recorder, appeal to the council by a written appeal deposited at the office of the recorder asking for a different ballot title for the measure and stating why the title prepared is unsatisfactory.

- (4) Action on Appeal. Within three days after deposit of the appeal at the office of the recorder of the council shall afford the appellant a hearing and either approve the title or prescribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure.
- (5) Measures submitted by City Council. When a measure or question is to be submitted to the voters by resolution of the City Council as in this ordinance provided, the Council may in said resolution provide a ballot title for such measure, and if it does so, the provisions of this section relating to the transmission of the measure to the City Attorney, the preparation of said ballot title by the said City Attorney or by the City Recorder, and the appeal to the Council by a voter dissatisfied with the title shall not apply.

Section 19. MEASURES PROPOSED BY CITY COUNCIL. A measure may be proposed and submitted to the legal voters of the city of Milwaukee by Resolution or Ordinance of the City Council without an initiative petition. Such resolution or ordinance shall be filed with the City Recorder for submission not later than 15 days before the election at which it is to be voted upon, and no measure shall be effective until it is approved by a majority of the votes cast thereon by the legal voters of the said city. Where a measure is proposed and submitted to the voters by the City Council by resolution or ordinance without an initiative petition, the said resolution or ordinance shall state the date of the regular municipal election or call and make provision for a special election at which said measure will be submitted to be voted upon.

Section 20. REQUISITES OF BALLOT TITLE.

- (1) Form. The ballot title for a measure shall consist of a caption not exceeding six words in length by which the measure is commonly referred to or spoken of, followed by an abbreviated statement not exceeding 25 words in length of the chief purpose of the measure.
- (2) Accuracy and Fairness. The ballot title shall truly and impartially state the purpose of the measure and in such language that the same shall not be intentionally an argument or likely to create prejudice either for or against the measure.
- (3) Designations. Measures proposed by initiative petition shall be designated "Proposed by Initiative Petition". Measures referred to the voters by petition shall be designated "Referendum Ordered by the People". Measures submitted by the City Council without initiative petition shall be designated "Proposed by the City Council and Referred to the Legal Voters of Said City".
- (4) When form Prescribed is Impracticable. If the City Council determines in a specific case that it is not practicable to submit a measure or question in the form required by this section, it may require it to be submitted in any form it deems to be practicable so as to truly and impartially state the purpose of the measure in question.

Section 21. VOTERS PAMPHLETS NOT NECESSARY. It shall not be necessary to file arguments for or against initiative or referred measures, or measures submitted by the City Council without initiative petition, or to prepare any explanatory statements relating to any measure so proposed, and cause the same to be printed and distributed to the voters of the city.

Section 22. NOTICE OF SPECIAL ELECTION.

- (1) Publishing and Posting. In case of a special election on a measure the city recorder, under the direction of the City Council, shall

give at least 10 days notice of such special election by posting notice thereof in 3 public places in each voting precinct stating the measure to be voted upon, the time and place of the election, and publishing once in the official city newspaper

- (2) Statements to be included: The notice shall state the time and place of said election and shall include the number and ballot title of each measure to be voted on. It shall not be necessary to include the full measure in said notice, but said notice shall state that the full measure is on file with the recorder at the recorder's office at the City Hall of Milwaukie, Oregon. A like rule as to posting shall be observed where measures are to be submitted at a regular election.
- (3) Form. The form of the notices shall be substantially as follows—

NOTICE OF SPECIAL ELECTION

On _____, 19____, in the city of _____, from _____ a.m. till _____ p.m., a special election will be held at which the following measure (or measures) will be submitted to the voters for their approval or rejection:

(In drawing the notice, insert in this blank the number and ballot title of each measure to be voted upon at the election.)

The full measure to be voted on is on file with the City Recorder at the Recorder's office in the City Hall of Milwaukie, Oregon, and there available for inspection.

The polling places for the election will be as follows:

Precinct

Polling Place

Witness my hand and the seal of the city _____
this _____ day of _____, 19____.

Recorder

Section 23. NOTICE AT GENERAL ELECTION. Where a measure is to be voted upon at a general election the notice of the election shall state that fact and the ballot title and number of each measure to be voted upon at the election.

Section 24. MANNER OF VOTING. The manner of voting upon measures submitted to the legal voters shall be the same as now is or may hereafter be provided by law. No measure shall be adopted unless it shall receive the affirmative majority of the

legal votes cast on such measure and entitled to be counted thereon. If 2 or more laws on the same subject or containing provisions that are conflicting shall be approved by the voters at the same election, the measure receiving the greatest number of affirmative votes shall be proclaimed to be the law adopted.

Section 25. ELECTION RETURNS. The votes on a measure shall be counted, canvassed, and returned as follows—

- (1) in case of general elections, in the same manner as other votes cast at general elections in the city, and
- (2) in case of special elections, in the manner provided by the city charter and ordinances.

ARTICLE VII

EFFECT OF MEASURES

Section 26. PROCLAMATION OF MAYOR

- (1) Time and Content. Immediately upon the completion of the canvass of the votes on a measure submitted to the voters pursuant to this ordinance the mayor shall issue a proclamation—
 - (a) recapitulating the vote on the measure,
 - (b) declaring whether the vote shows a majority of those who voted on the measure to be in favor of it, and
 - (c) in case the vote shows a majority of them to be in favor of the measure, announcing it to be effective from the date of the vote.
- (2) Publication or Posting. The recorder shall give public notice of the proclamation by—
 - (a) publishing it once in a newspaper of general circulation in the city or
 - (b) posting copies of it in five public places in the city, including the city hall.
- (3) Filing With Measure. The proclamation shall be filed with the measure.

Section 27. EFFECTIVE DATE OF MEASURE. A measure submitted to the voters pursuant to this ordinance shall take effect only when approved by a majority of the voters voting upon it.

Section 28. MEASURES SUBJECT TO REFERENDUM. A measure, so long as it is subject to the referendum, shall have no effect.

ARTICLE VIII

CRIMINAL PROVISIONS

Section 29. UNLAWFUL ACTS.

- (1) Signing by One Not a Voter. No person other than a voter shall sign his name to a petition.

- (2) Signing Another's Name. No person shall sign a petition with a name not his own.
- (3) Signing Petition More Than Once. No person shall sign his name to a petition with knowledge that he has previously signed his name to the petition.
- (4) Circulating or Filing Petition With Unlawful Signature. No person shall knowingly circulate or deposit at the office of the recorder a petition which to his knowledge contains a signature signed in violation of this ordinance.
- (5) Procuring Signature by Fraud. No person shall procure or attempt to procure a signature to a petition by fraud.
- (6) Making False Statement. No person shall make a statement which he knows to be false concerning a petition.
- (7) Making False Document. No person shall make a document for which this ordinance provides which contains a false statement.
- (8) Paying or Receiving Consideration for Signatures. No person shall pay or receive a valuable consideration for procuring a signature to a petition.
- (9) Officer Violating Ordinance. No officer shall willfully violate a provision of this ordinance.

Section 30. PENALTY. A person who violates a provision of this article shall be punished by--

- (1) a fine of not more than \$ 50.00 or
- (2) imprisonment in jail not more than 30 days or
- (3) both.

Section 31. REPEAL OF CONFLICTING ORDINANCES.
All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 32. VALIDITY. Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of the ordinance as a whole nor any part thereof, other than the part declared invalid.

Section 33. DECLARING AN EMERGENCY. Inasmuch as this ordinance is necessary for the immediate preservation of public health, peace and safety of the city of Milwaukie, Oregon, and the inhabitants thereof, in this, that it is necessary that certain measures and questions be submitted to the voters of said city at as early a date as possible, an emergency is hereby declared to exist and this ordinance shall hereby take effect and be in full force and effect after its signing by the Mayor.

Read the first time this 13th day of October, 1958

Read the second time and passed this 13 day of October, 1958

Signed by the Mayor this 13 day of October, 1958.

Leonard B. Muller

The foregoing Ordinance No. 735 was unanimously passed by the Council of the City of Milwaukie, Oregon, on the 13th day of October, 1958, as shown by the minutes of the Council meeting of that date.

Dated this 13th day of October, 1958.

H. E. Eber
Recorder